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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

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11 JOSHUA SPENCER HILL, ) Case No. ED CV 12-00898-DMG (V рк )  
12 Petitioner, ) MEMORANDUM AND ORDER DISMISSING  
13 v. ) PETITION FOR WRIT OF HABEAS  
14 WARDEN, ) CORPUS  
15 Respondent. )  
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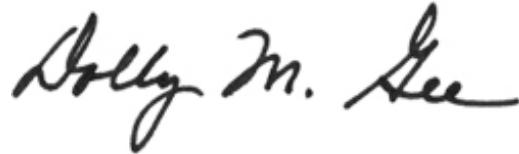
17 On June 5, 2012, Joshua Spencer Hill (hereinafter referred to as  
18 "Petitioner") filed a "Petition for Writ of Habeas Corpus by a Person  
19 in State Custody" in the United States District Court for the Central  
20 District of California. On December 14, 2011, in Riverside County  
21 Superior Court, Petitioner pled guilty to violating California Penal  
22 Code § 273.5 and § 2933.5 and was sentenced to two years in state  
23 prison. (See Petition at 2.)

24 It appears conclusively from the face of the Petition that state  
25 remedies have not been exhausted. There is no indication in the  
26 Petition whatsoever that the California Court of Appeal or California  
27 Supreme Court have been given an opportunity to rule on Petitioner's  
28 contentions. (See Petition at 3-5.)

1       A federal court will not review a state prisoner's petition for  
2 writ of habeas corpus unless it appears that the prisoner has  
3 exhausted available state remedies on each and every claim presented.  
4 28 U.S.C. §2254(b) and (c); see O'Sullivan v. Boerckel, 526 U.S. 838,  
5 842 (1999); Rose v. Lundy, 455 U.S. 509, 522 (1982). "For reasons of  
6 federalism, 28 U.S.C. §2254 requires federal courts to give the states  
7 an initial opportunity to correct alleged violations of its prisoners'  
8 federal rights." Kellotat v. Cupp, 719 F.2d 1027, 1029 (9<sup>th</sup> Cir.  
9 1983).

10      Exhaustion requires that the prisoner's contentions be fairly  
11 presented to the highest court of the state. Libberton v. Ryan, 583  
12 F.3d 1147, 1164 (9<sup>th</sup> Cir. 2009), cert. denied, 130 S.Ct. 3412 (2010).  
13 A claim has not been fairly presented unless the prisoner has  
14 described in the state court proceedings both the operative facts and  
15 the federal legal theory on which his claim is based. See Anderson v.  
16 Harless, 459 U.S. 4, 6 (1982); Pappageorge v. Sumner, 688 F.2d 1294  
17 (9<sup>th</sup> Cir. 1982), cert. denied, 459 U.S. 1219 (1983).

18      **ACCORDINGLY, IT IS ORDERED** that the Petition be dismissed without  
19 prejudice.



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21 DATED: June 19, 2012

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DOLLY M. GEE  
UNITED STATES DISTRICT JUDGE

22  
23 Presented on  
24 June 8, 2012 by:  
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26                    /s/  
27 VICTOR B. KENTON  
28 UNITED STATES MAGISTRATE JUDGE